



CRL OP(MD).No.2220 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/02/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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P.Santhosh Kumar

... Petitioner/ Accused No.7

Vs

The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
In Crime No.174/2023..

... Respondent/Complainant

For Petitioner : Mr.K.Suyambulinga Bharathi,
Advocate.

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.174/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 29.12.2023



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for the offence punishable under Section Man Missing @ Sections 147, 148, 109, 201 and 302 IPC, in Crime No.174 of 2023 on the file of the respondent Police, seeks bail.

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2.The case of the prosecution is that the defacto complainant has four sons and his second son is Sathuragiri, who got married with one Radhika/accused No.3. In the year 2022, the defacto complainant has visited the house of his second son and enquired whereabouts of his son to his daughter-in-law. In reply, she stated that her husband went to Chennai for the work. Due to suspicious about the missing of his son, the defacto complainant has lodged the complaint before the respondent Police. Initially, the case was registered under Section Man Missing. After commencement of investigation, it came to light that the accused persons murdered the son of the defacto complainant and buried the body without informing the respondent Police. Due to suspicion, the body was recomposed and thereafter, it came to light that the accused persons attacked the son of the defacto complainant by using knife, due to which, he died and they set fire on the dead body by using petrol. Thereafter, the offence was altered to Sections 147, 148, 109, 201, 302 IPC. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as



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alleged by the prosecution. He would further submit that initially, the name of the petitioner was not found in FIR and subsequently, the respondent Police has issued summon to the petitioner for appearance and thereafter, he was detained in two days and he was falsely implicated in this case. He would further submit that there is no specific overt act against the petitioner and the petitioner is in judicial custody from 29.12.2023. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the way in which the murder has been committed by the accused persons is intolerable and the deceased was murdered by his wife and his son and the other accused persons were abutting the crime committed by the accused Nos.1 and 3. He would further submit that three previous cases are pending against the petitioner. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Heard the learned counsel on either side.

6. Considering the facts and circumstances of the case and the fact that there is no specific overt act against the petitioner and that the petitioner is in prison for more than 50 days, this court is inclined to grant bail to the petitioner, subject to the following conditions:



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7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/-(Rupees Ten Thousand only)** with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Manamadurai**, and on further conditions that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner is directed to appear before the respondent police daily at 10.30 a.m., till the completion of investigation.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*; and;



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(f)if the accused thereafter absconds, a fresh FIR can be registered under

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Section 229-A IPC.

sd/-

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Sub-Assistant Registrar

(C.S. I / II / III / IV)

Madurai Bench of Madras High Court,

Madurai - 625 023.

SSB

TO

- 1 THE JUDICIAL MAGISTRATE, MANAMADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
MANAMADURAI POLICE STATION,
SIVAGANGAI DISTRICT
- 4 THE OFFICER INCHARGE,
DISTRICT JAIL, RAMANATHAPURAM DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.SUYAMBULINGA BHARATHI, Advocate (SR-2377[I] dated 26/02/2024)

ORDER

IN

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Date :26/02/2024

SS/SAR- /26/02/2024/5P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023